

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF SOUTH CAROLINA

Shawn Simmons, # 11044-171,	)	
	)	C/A No. 9:08-2522-MBS
Plaintiff,	)	
	)	
vs.	)	
	)	
United States Attorney General Department	)	<b>ORDER</b>
of Justice; United States Attorney for the	)	
District of South Carolina,	)	
	)	
Defendants.	)	
_____	)	

Plaintiff Shawn Simmons pleaded guilty on November 30, 2004 to count two of the superseding indictment, knowingly using and carrying a firearm during and in relation to, and possessing a firearm in furtherance of, a drug trafficking crime, in violation of 18 U.S.C. § 924(c)(1)(A). Plaintiff was sentenced to incarceration for a period of sixty months. Judgment was entered on January 25, 2005. Plaintiff currently is in custody of the Federal Bureau of Prisons housed at FCI-Sandstone in Sandstone, Minnesota.

Plaintiff, proceeding pro se, filed a “Preliminary Complaint for Injunctive Relief” on July 17, 2008. Plaintiff seeks information under the Freedom of Information Act (FOIA) concerning the status of U.S. Highway 501 as federal property, as well as court copies of the Grand Jury proceedings. See Fed. R. Crim. P. 6(f).

In accordance with 28 U.S.C. § 636(b) and Local Rule 73.02, D.S.C., this matter was referred to United States Magistrate Judge George C. Kosko for pretrial handling. The Magistrate Judge reviewed the complaint pursuant to 28 U.S.C. §§ 1915, 1915A, and the Prison Litigation Reform Act. On August 6, 2008, the Magistrate Judge issued a Report and Recommendation in which he

recommended that the within action be summarily dismissed because Plaintiff has not filed a formal request under FOIA with the United States Department of Justice. Plaintiff filed no objections to the Report and Recommendation.

The Magistrate Judge makes only a recommendation to this court. The recommendation has no presumptive weight. The responsibility for making a final determination remains with this court. Mathews v. Weber, 423 U.S. 261, 270 (1976). The court is charged with making a de novo determination of any portions of the Report and Recommendation to which a specific objection is made. The court may accept, reject, or modify, in whole or in part, the recommendation made by the Magistrate Judge or may recommit the matter to the Magistrate Judge with instructions. 28 U.S.C. § 636(b)(1). In the absence of objections to the Report, this court is not required to give any explanation for adopting the recommendation. Camby v. Davis, 718 F.2d 198, 199 (4th Cir. 1983).

The court has carefully reviewed the record and concurs in the recommendation of the Magistrate Judge. The within action is dismissed without prejudice and without issuance of service of process.

**IT IS SO ORDERED.**

/s/ Margaret B. Seymour  
United States District Judge

Columbia, South Carolina

September 17, 2008

**NOTICE OF RIGHT TO APPEAL**

**Plaintiff is hereby notified that he has the right to appeal this order pursuant to Rules 3 and 4 of the Federal Rules of Appellate Procedure.**